



**Empire State
Development**

FASHION INNOVATION CENTER REQUEST FOR APPLICATIONS

Issued: June 16, 2023

Designated Contacts for this Procurement:

Primary Contact: Heidi Knoblauch

Secondary Contact: Jessica Herbert

All contacts/inquiries shall be made by email to the following address:

Fashion@esd.ny.gov

Respondents must upload their proposals prior to the deadline to the designated

Dropbox: <https://www.dropbox.com/request/ik8tUpmzidcxG8lLhStj>

This Request for Applications (“RFA”) is posted on the Empire State Development

website: <https://esd.ny.gov/doing-business-ny/requests-proposals>

APPLICATIONS DUE DATE AND TIME:

On or before July 10, 2023 by 2:00 PM EST

Late applications will not be accepted

I. Introduction

The mission of Empire State Development (“ESD”) is to promote a vigorous and growing state economy, encourage business investment and job creation, and support diverse, prosperous local economies across New York State through the efficient use of loans, grants, tax credits, real estate development, marketing, and other forms of assistance.

A. Project Summary

New York State is home to a world class agricultural community, as well as the internationally recognized fashion industry. At present, these industries operate somewhat separate and apart from one another. However, as Governor Hochul has recognized, these existing strengths uniquely position New York State to become a leader in advancing a more sustainable fashion industry, all while promoting the outputs of New Yorks farms.

ESD is spearheading the creation of a consortium-led Fashion Innovation Center (“FIC”) to encourage investments in New York State’s agricultural industry and bolster demand for plant and animal fibers by promoting the creation, utilization, and production of New York-grown and made materials to be used and marketed by the textile and fashion industries.

The FIC will have two primary responsibilities. The first is the creation and operation of a Sustainable Fashion Innovation Center Accelerator (“Accelerator”). The Accelerator will focus on, among other things, the creation and distribution of innovative textile-related plant-based and bioengineered materials. The Accelerator will engage stakeholders in agriculture innovation to identify opportunities to develop smart and sustainable materials, create green jobs, promote sustainably produced textiles, support sustainable fashion, and take part in other activities that deliver practical solutions for farmers, businesses, and designers. In this regard, the FIC will tap into a wide range of experts to develop new marketing opportunities for plant and animal fibers grown and laboratory developed materials. In addition, the FIC will promote opportunities to expand sustainability across the entire textile life cycle. By implementing solutions geared towards clean technologies with processing and production of textiles, efficient management of wastewater and chemicals, along with reduced water consumption, the FIC will catalyze the circular economy and reduce environmental hazards and negative social impacts. The FIC may also focus on recycling and reuse of fabrics and textiles.

The second responsibility of the FIC is to generate substantial opportunities for farmers and local businesses to participate in projects that will boost demand for New York’s agricultural products. Through collaborations with multiple stakeholders, the FIC will offer solutions to existing and far-reaching problems that farmers and businesses identify. The FIC will work across technology sectors to leverage expertise as appropriate for specific projects or to address certain challenges.

B. Request for Application Schedule

Item	Date
Release of Request for Applications	June 16, 2023
Deadline for Submission of Questions	June 27, 2023 by 5:00 PM EST
Deadline for ESD to Respond to Questions	June 29, 2023
Submission of Applications	July 10, 2023 by 2:00 PM EST
Anticipated Announcement of Selections	TBD
Anticipated Contract Start Date	September 1, 2023

II. Project

A. Program Goals and Objectives

Under this RFA, ESD is seeking a lead organization to create and operate the FIC. Given the dual function of the FIC, it is critical for the Applicant to identify partners and provide support letters from those partners who will help them achieve both functions. The Proposal must address the following two tasks:

Task I: Collaboration Model

The FIC will support agricultural innovation by making connections across the agricultural and fashion industries. It is as important that the FIC engage farmers who produce plant or animal fibers as it is for the FIC to engage scientists who develop new materials in the lab. Therefore, it is important Applicants explain how they will collaborate with a broad pool of agricultural innovation stakeholders.

The Proposal must include:

- Core set of industry problems the Applicant intends to tackle at the FIC;
- Explain how the FIC will tap into and leverage the existing fashion industry in and around New York City;
- The industry and non-industry partners, services, and resources (demonstrating access to mentors, investor networks, specialized equipment, fashion brands, etc.) who will perform various objectives or tasks; and
- How the collaboration model proposed will support innovation in New York State and create a center dedicated to sustainability across the Fashion industry value chain.

Task II: Accelerator Program

The Accelerator must include a competitive application process wherein a company is selected to join a cohort of companies working to solve priority problems for the textile/fashion industry. The Accelerator should provide grants (up to \$10,000) for companies to complete pilot projects that will accelerate their commercialization. The Proposal must include:

- Proposed curriculum, strategy, and target markets;
- Services and resources the Accelerator will offer early-stage companies;
- Partners who will contribute to the Accelerator's success;
- Experience operating an accelerator, incubator, or other structured program;
- Record of success in attracting, vetting, and supporting companies commercializing innovative technologies/products; and
- Plan to support the Accelerator beyond the grant period and ability to raise capital from private industry.

The FIC should have a physical location where people can have office space or use equipment. Capital funding can be used for the purchase of equipment and/or to fit out of a new or existing office space.

B. Eligibility Requirements

To be eligible to receive grant proceeds from ESD, an applicant must be in good standing with the State of New York and ESD.

C. Project Timeline

i. Funding Amount and Completion Dates

The contract period is anticipated to start September 1, 2023 and end August 31, 2028.

Grant awards are as follows:

- **Capital Expenses:** up to \$5 million is available for capital costs, which may include expenses related to equipment, lab/office space, or other such capital-related expenses as approved by ESD in its sole discretion.
- **Operating Expenses and Grants:** up to \$5 million is available for operating costs and company support. This funding will support accelerator operations and expenses related to supporting this initiative. Small grants should be made available to further develop promising discoveries; technologies; processes; and/or early-stage companies. Grant recipients must be required to remain in NYS for a period of 1 year after receiving a grant.

ESD reserves the right to make awards in amounts greater or lesser than the above listed figures and/or at a varying schedule depending on the number and quality of applications received and other considerations set forth in this RFA.

There is no cost-match requirement associated with this grant. But proposals that include funding from other sources will be reviewed favorably.

ii. Eligible and Ineligible Expenses

Eligible activities include but are not limited to:

- Curriculum development and staffing for the Accelerator;
- Grants for projects that will accelerate the creation and/or production of sustainable textile technologies;
- Marketing and outreach to increase awareness of the Accelerator and FIC more broadly;
- Planning and executing workshops and webinars (may be focused on a specific industry/technology area);
- Additional activities deemed relevant and approved by ESD.

The following limitations apply to this RFA:

- Indirect costs are PROHIBITED;
- Basic Research is PROHIBITED; and
- Expenses must be relevant and justifiable to the project(s) outcome.

A

budget template is included in this RFA. ESD reserves the right to review all expenses and deny the reimbursement of any expenses that are deemed ineligible.

D. Data Collection

Applicants awarded grant funding will be required to track and record information relevant to the success of this grant. Data will be made available to ESD as requested. Data points to be captured and tracked are at the discretion of ESD and will be shared with recipients at the time of award.

IV. Application Information

Please provide a narrative that includes the following information in the following order using the headings listed below. Submitted applications are expected to be clearly written. If applications exceed the page limits and/or include materials not requested by the RFA, ESD will remove the extra pages and/or materials prior to the review. During the review process, applicant institutions may be requested to submit additional written documents to answer questions or provide clarification of issues raised during the review process. Assemble the application in the following order:

1. Cover page
2. Table of Contents
3. Glossary of Terms Used
4. Executive Summary (max 1 page)
5. Proposal (15-page limit)
 - a. Each organization's experience and qualification
 - i. Designate a lead organization and provide details of each member organization's experience and qualification.
 - ii. Demonstrate the Applicant's knowledge, expertise, and experience of cultivating and supporting early-stage companies in the textile industry.
 - iii. Demonstrate the collective knowledge of the consortium's knowledge, expertise, and experience working with established farmers, growers, and manufacturers.
 - iv. Offer a list of partners and how they will strengthen the FIC and contribute to the success of companies and researchers being supported by the FIC.
 - v. Outline how resources in two or more New York State regions will be leveraged.
 - b. Accelerator Program
 - i. Provide details of the team's experience and the appropriate staff's knowledge, ability, individual roles in running an accelerator.
 - ii. Provide the suggested frequency of pilot grants, the number of companies supported each year, and the number of grants planned, grant amounts and how those grants will be managed.
 - iii. Explain outreach plan to recruit, engage, and retain mentors, supply chain experts, and other human capital critical to success.
 - iv. Give details about how you will recruit or retain promising innovative companies, with an emphasis on underserved companies, to grow in New York.
 - v. Outline the plan to support the Accelerator beyond the grant period and ability to raise capital from private industry.
 - c. Collaboration Model
 - i. Explain how you will promote a collaborative approach and how you will engage universities, farms, fashion industry leaders, and other stakeholders.
 - ii. Outline ways you will provide "lean launchpad" and customer discovery programming for early-stage companies.
 - iii. Explain how you will market the FIC.

- iv. Provide names of the industry and non-industry partners, services, and resources (demonstrating access to mentors, investor networks, specialized equipment, etc.) who will perform various objectives or tasks.
 - v. Give details about the specific industry problems the FIC will tackle and how the support given to those problems will be tracked.
- d. Use of Funds
- i. Outline and justify anticipated capital costs, including whether the Applicant currently has site control.
 - ii. Outline and justify anticipated operating expenses.
 - iii. Provide a detailed budget.
 - iv. Provide a detailed plan identifying any and all subcontracting opportunities associated with this project and explain how Minority- and Women-owned Business Enterprises (“MWBEs”) and Service-Disabled Veteran-owned Businesses (“SDVOBs”) would be utilized.
6. Commitment letters from external strategic partners demonstrating the services, assistance and/or support that will be provided to support the FIC. Partners committing financial and staff resources should clearly identify the value of such resources by year. Commitment letters do not count towards page limits.

IV. Review Criteria and Process

ESD will balance individual application scores.

For the review of eligible applications, ESD has established the following criteria to be applied in accordance with the review process set forth in IV Section B.].

A. Review Criteria

1. Experience and Qualification (30 points)
 - a. Strength of the lead organization. (5 points)
 - b. Strength of the member organizations. (5 points)
 - c. Knowledge, expertise, and experience cultivating and supporting early-stage companies in the textile and/or materials science industries. (5 points)
 - d. Knowledge, expertise, and experience working with established farmers, growers, and manufacturers. (5 points)
 - e. Ability of partners to support the FIC. (5 points)
 - f. Quality and geographic positioning of resources. (5 points)
2. Accelerator Program (25 points)
 - a. Team’s experience and knowledge, ability, individual roles in running an accelerator. (5 points)
 - b. Frequency of the pilot grants, the number of companies supported each year, and the number of grants planned, grant amounts and how those pilot projects will be managed. (5 points)
 - c. Plan to recruit, engage and retain mentors, supply chain experts, and other human capital critical to success. (5 points)
 - d. Plan to recruit or retain promising innovative companies, with an emphasis on underserved founders, to grow in New York. (5 points)

- e. Plan to support the Accelerator beyond the grant period and ability to raise capital from private industry. (5 points)
3. Collaboration Model (25 points)
 - a. Plan to promote a collaborative approach and engage universities, farms, fashion industry leaders, and other stakeholders. (5 points)
 - b. Plan to provide “lean launchpad” and customer discovery programming for early-stage companies. (5 points)
 - c. Ability to market the FIC. (5 points)
 - d. Strength of industry and non-industry partners, services, and resources. (5 points)
 - e. Ability to develop set of industry problems to address and ability to track support. (5 points)
 4. Use of Funds (5 points)
 - a. Quality of the applicant institution’s justification/rationale for the use of the requested funds and the location of equipment, lab, or office space.
 5. Proposal Clarity (5 points)
 - a. Quality of proposal’s organization, clarity and adherence to page limitations.
 6. Partnerships (5 points)
 - a. Quality of partners.
 7. Diversity Practices Scoring (5 points)
 - a. ESD’s Office of Contractor and Supplier Diversity will score each application for Diversity Practices. Up to 5 points will be awarded based upon the contents of the Diversity Practices Questionnaire Appendix B, submitted by each Respondent to the RFA.

B. Review Process

Reviewers may include ESD staff, staff from federal or other State agencies, and individuals selected from the science, business, and academic communities. The reviewers will adhere to the process described in this section and will apply the review criteria detailed above. ESD may limit the number of proposals a reviewer is required to evaluate. Each proposal will be reviewed and scored by at least three reviewers.

Scoring: Reviewers will independently evaluate and assign a preliminary score to proposals that have been accepted by ESD. The *preliminary scores* for a proposal will be combined to provide an *initial average score* for that proposal.

After the initial average scores are calculated, reviewers will convene as a group to review these preliminary scores and discuss the proposals in accordance with the review criteria. At the conclusion of the discussions, each reviewer will individually provide a *final score* for each proposal based upon the panel’s discussions.

In the event that two or more proposals have the same final score, and the score is high enough for the applicants to be considered for funding, the review panel will hold an additional session to review only those affected proposals. The review panel will deliberate until there is a consensus regarding the selection. At times, it may be necessary to conduct interviews in order to determine the selected applicant.

ESD reserves the right to reject any and all applications. ESD may recall this RFA at any time prior to award announcement and may also reject proposals for deficiencies; waive technicalities, irregularities, and

omissions; or solicit new proposals. ESD reserves the right to act in accordance with the best interests of the people of New York in its interpretation of this RFA.

Applicants and/or their surrogates are prohibited from contacting any ESD staff to advocate on behalf of a proposal submitted in response to this RFA. Violation of this restriction will disqualify an applicant's proposal from the competition.

V. SUBMISSION OF APPLICATIONS

Responding firms are indicating their acceptance of the conditions in this RFA. Applications submitted in a manner other than as described in these instructions (e.g., facsimile, hardcopies, emails) will not be accepted. When submitting applications, Respondents must comply with the following:

The applications must be uploaded to the Dropbox prior to the deadline as indicated in the Table of Events/Schedule of Dates. <https://www.dropbox.com/request/ik8tUpmzidcxG8lLhStj>

Proper format: Please create a folder with: Respondent's name – RFA title – Date of Submission.

example: **HPC, Inc. – Fashion RFA – 07.10.23**

Included in that main folder should be two sub-folders, one for the Administrative Documents and the other for the Technical Documents. The main folder should be uploaded to the Dropbox by choosing the following option: "Add Files → folders from computer". All documents in the two sub-folders should be properly labeled.

Late submissions will not be considered for award.

VI. QUESTIONS

All questions, comments, requests for clarification or any other communication regarding this RFA must be submitted by email to fashion@esd.ny.gov no later June 27 by 5:00 PM EST. Your subject line should state: "[Name of Applicant] – RFA Inquiry, Fashion Innovation Center RFA".

VII. GENERAL PROVISIONS

The issuance of this RFA and the submission of a response by an applicant or the acceptance of such a response by ESD does not obligate ESD in any manner. ESD reserves the right to:

- i. amend, modify or withdraw this RFA;
- ii. revise any requirement of this RFA;
- iii. require supplemental statements or information from any responsible party;
- iv. accept or reject any or all responses hereto;
- v. extend the deadline for submission of responses hereto;
- vi. negotiate potential contract terms with any Bidder;
- vii. communicate with any Bidder to correct and/or clarify responses which do not conform to the instructions contained herein;
- viii. cancel, or reissue in whole or in part, this RFA, if ESD determines in its sole discretion that it is its best interest to do so; and
- ix. extend the term of any agreement on terms consistent with this RFA.

ESD may exercise the foregoing rights at any time without notice and without liability to any responding

firm or any other party for its expenses incurred in preparation of responses hereto or otherwise. All costs associated with responding to this RFA will be at the sole cost and expense of the Bidder.

All information submitted in response to this RFA is subject to the Freedom of Information Law ("FOIL"), which generally mandates the disclosure of documents in the possession of ESD upon the request of any person unless the content of the document falls under a specific exemption to disclosure. In addition, Proposals may be discussed at meetings of the ESD Directors, which meetings are subject to the Open Meetings Law.

ESD reserves the right, in its sole discretion, to retain and use all the materials and information, and the ideas and suggestions therein, submitted in response to this solicitation (collectively, the "Response Information") for any purpose. By submitting an application, each Respondent waives any and all claims against ESD relating to ESD's retention or use of the Response Information.

VIII. SUBMISSION REQUIREMENTS

Procurement Forms and Requirements

Additional requirements for this RFA are described below. Relevant forms, where required to be submitted, must be executed and included in the submission in the same order as listed below:

1. Conflict of Interest
2. 139 J&K
3. Vendor Responsibility Questionnaire
4. Insurance Requirements
5. Non-Discrimination and Contractor & Supplier Diversity Requirements
6. W-9

1) Conflicts of Interest

Respondent must attest it has read, understood and will comply with the following provisions <https://esd.ny.gov/sites/default/files/Conflict-of-Interest-Attestation-June-2019.pdf>. ESD shall have the right to disqualify any respondent to this RFP or terminate any contract entered into as a result of this RFP should ESD determine that the Respondent has violated any of these requirements.

- A. Gifts and Offers of Employment:** Respondent has not and shall not during this procurement and during the negotiation of any contract resulting from this procurement, offer to any employee, member or director of ESD, any gift, whether in the form of money, services, loan, travel, entertainment, hospitality, thing or promise, or in any other form, under circumstances in which it could reasonably be inferred that the offer was intended to influence said employee, member or director, or could reasonably be expected to influence said employee, member or director, in the performance of the official duty of said employee, member or director or was intended as a reward for any official action on the part of said employee, member or director. Respondent may not make any offers of employment or discuss the possibility of such offers with any employee, member or director of ESD who is involved in this procurement and/or resulting contract negotiation within at least 30 days from the time that the employee's involvement in this matter closed.

- B. Disclosure of Potential Conflicts:** Respondent shall disclose any existing or contemplated relationship with any other person or entity, including relationships with any member, shareholders of 5% or more, parent, subsidiary, or affiliated firm, which would constitute an actual or potential conflict of interest or appearance of impropriety, relating to other clients/customers/employers of the Respondent or former officers and employees of ESD, in connection with your rendering services enumerated in this RFP. If a conflict does or might exist, Respondent must describe how it would eliminate or prevent it.

Disclosure of Ethics Investigations: Respondent must disclose whether it, or any of its members, shareholders of 5% or more, parents, affiliates, or subsidiaries, have been the subject of any ongoing investigation or disciplinary action by the New York State Commission on Public Integrity or its predecessor State entities (collectively, "Commission"), and if so, a description must be included indicating how any matter before the Commission was resolved or whether it remains unresolved.

2. State Finance Law Sections 139J and 139K forms

State Finance Law Sections 139-j and 139-k (collectively, the "Procurement Requirements") apply to this RFP. These Procurement Requirements: (1) govern permissible communications between potential Bidders and ESD or other involved governmental entities with respect to this RFP; (2) provide for increased disclosure in the public procurement process through identification of persons or organizations whose function is to influence procurement contracts, public works agreements and real property transactions; and (3) establish sanctions for knowing and willful violations of the provisions of the Procurement Requirements, including disqualification from eligibility for an award of any contract pursuant to this RFP. Compliance with the Procurement Requirements requires that all communications regarding this RFP, from the time of its issuance through final award and execution of any resulting contract (the "Restricted Period"), be conducted only with the designated contact persons listed above; the completion by Bidders of the Offeror Disclosure of Prior Non-Responsibility Determinations, and the Offeror's Affirmation of Understanding and Agreement pursuant to State Finance Law (each form is accessible at the Required Forms for Vendors link at the ESDC web site under "RFPs/RFQs"); and periodic updating of such forms during the term of any contract resulting from this RFP.

Bidders must submit the Offeror Disclosure of Prior Non-Responsibility Determinations, and the Offeror's Affirmation of Understanding and Agreement pursuant to State Finance Law as part of their submittal. Copies of these forms are available at:

https://esd.ny.gov/CorporateInformation/Data/RFPs/RequiredForms/SF_Law139_JK.pdf.

The Procurement Requirements also require ESD staff to obtain and report certain information when contacted by Bidders during the Restricted Period, make a determination of the responsibility of Bidders and make all such information publicly available in accordance with applicable law. If a Bidder is found to have knowingly and willfully violated the State Finance Law provisions, that Bidder and its subsidiaries, related or successor entities will be determined to be a non-responsible Bidder and will not be awarded any contract issued pursuant to this solicitation. In addition, two such findings of non-responsibility within a four-year period can result in debarment from obtaining any New York State governmental procurement contract. The designated contact account for this solicitation is referenced on the cover of this RFP.

This is not a complete presentation of the provisions of the Procurement Requirements. A copy of State Finance Law Sections 139-j and 139-k can be found at:

http://esd.ny.gov/CorporateInformation/Data/RFPs/RequiredForms/PermissibleContactsPolicy_Jan2007.pdf. All potential Bidders are solely responsible for full compliance with the Procurement Requirements. Both the prime consultant and any sub-consultants complete the forms required above.

3. Vendor Responsibility Questionnaire

All Respondents to this RFA must be “responsible,” which in this context means that they must have the requisite financial ability, organizational capacity and legal authority to carry out its obligations under this RFA, and in addition must demonstrate that both the Respondent and its principals have and will maintain the level of integrity needed to contract with New York State entities such as ESD. Further, the Respondent must show satisfactory performance of all prior government contracts. Accordingly, the contract to be entered into between ESD and the Respondent, if any, shall include clauses providing that the Respondent remain “responsible” throughout the term of the contract, that ESD may suspend the contract if information is discovered that calls into question the responsibility of the contracting party, and that ESD may terminate the contract based on a determination that the contracting party is non-responsible. On request, model language to this effect will be provided to any Respondent to this RFQ.

To assist in the determination of responsibility, ESD requires that all respondents to this RFA register in the State's Vendor Responsibility System (“Vend-Rep System”). The Vend-Rep System allows business entities to enter and maintain their Vendor Responsibility Questionnaire information in a secure, centralized database. New York State Procurement Law requires that state agencies award contracts only to responsible vendors. Respondents are to file the required Vendor Responsibility Questionnaire online via the Vend-Rep System or may choose to complete and submit a paper questionnaire. Please include a copy of your Vend-Rep submission receipt or paper questionnaire with your proposal.

To enroll in and use the Vend-Rep System, see the System Instructions available at www.osc.state.ny.us/vendrep or go directly to the Vend-Rep system online at <https://portal.osc.state.ny.us>. For direct Vend-Rep System user assistance, the Office of the State Comptroller’s Help Desk may be reached at 866-370-4672 or 518-408-4672 or by email at helpdesk@osc.state.ny.us.

Respondents opting to file a paper questionnaire can obtain the appropriate questionnaire from the Vend-Rep website (http://www.osc.state.ny.us/vendrep/forms_vendor.htm) and execute accordingly pertaining to the company’s trade industry. Per the website, respondents are to “Select the questionnaire which best matches the business type (either For-Profit or Not-For-Profit) and business activity (Construction or Other).”

4. Insurance Requirements

The prospective CDFI/CBLO will be expected to show evidence of the following insurance requirements, (at a minimum and to the extent applicable) as listed below:

- Commercial General Liability insurance - \$1 million per occurrence / \$2 million aggregate
 - o The NYS Urban Development Corporation (d/b/a Empire State Development) must be named as an “additional insured” on a primary and non-contributory basis on the policy
 - o The policy above should include a waiver of subrogation in favor of the NYS Urban Development Corporation (d/b/a Empire State Development)

5. Non-Discrimination and Contractor & Supplier Diversity Requirements

CONTRACTOR REQUIREMENTS AND PROCEDURES FOR BUSINESS PARTICIPATION OPPORTUNITIES FOR NEW YORK STATE CERTIFIED MINORITY AND WOMEN-OWNED BUSINESS ENTERPRISES AND EQUAL EMPLOYMENT OPPORTUNITIES FOR MINORITY GROUP MEMBERS AND WOMEN

NEW YORK STATE LAW

Pursuant to New York State Executive Law Article 15-A and 5 NYCRR §§140-145, ESD recognizes its obligation under the law to promote opportunities for maximum feasible participation of certified Minority and Women-owned Business Enterprises (“MWBE”) and the employment of minority group members and women in the performance of ESD contracts.

BUSINESS PARTICIPATION OPPORTUNITIES FOR MWBEs

For contracts resulting from this solicitation, ESD may establish a goal for MWBE participation based on the scope of work and project description identified in the RFA response. Such contracts may set forth additional requirements that will encourage business participation opportunities for MWBEs. A contractor (“Contractor”) on any contract resulting from this procurement (“Contract”) must document its good faith efforts to provide meaningful participation by MWBEs as subcontractors and suppliers in the performance of the Contract. To that end, by submitting a response to this RFA, the respondent agrees that ESD may withhold payment pursuant to any Contract awarded as a result of this RFA pending receipt of the required MWBE documentation. The directory of MWBEs can be viewed at: <https://ny.newnycontracts.com>. For guidance on how ESD will evaluate a Contractor’s “good faith efforts,” refer to 5 NYCRR § 142.8.

The respondent understands that only sums paid to MWBEs for the performance of a commercially useful function, as that term is defined in 5 NYCRR § 140.1, may be applied towards the achievement of the applicable MWBE participation goal. The portion of a contract with an MWBE serving as a supplier that shall be deemed to represent the commercially useful function performed by the MWBE shall be 60 percent of the total value of the contract. The portion of a contract with an MWBE serving as a broker that shall be deemed to represent the commercially useful function performed by the MWBE shall be the monetary value for fees, or the markup percentage, charged by the MWBE.

In accordance with 5 NYCRR § 142.13, the respondent further acknowledges that if it is found to have willfully and intentionally failed to comply with the MWBE participation goals set forth in a Contract resulting from this RFA, such finding constitutes a breach of contract and ESD may withhold payment as liquidated damages.

Such liquidated damages shall be calculated as an amount equaling the difference between: (1) all sums identified for payment to MWBEs had the Contractor achieved the contractual MWBE goals; and (2) all sums actually paid to MWBEs for work performed or materials supplied under the Contract.

By submitting a bid or application, a respondent agrees to demonstrate its good faith efforts to achieve the applicable MWBE participation goals by submitting evidence thereof through the New York State Contract System (“NYSCS”), which can be viewed at <https://ny.newnycontracts.com>, provided, however, that a respondent may arrange to provide such evidence via a non-electronic method by contacting the Office of Contractor and Supplier Diversity (“OCSD”) at OCSD@esd.ny.gov.

Additionally, a respondent will be required to submit the following documents and information as evidence of compliance with the foregoing:

- A. An MWBE Utilization Plan with their bid or application. Any modifications or changes to an accepted MWBE Utilization Plan after the Contract award and during the term of the Contract must be reported on a revised MWBE Utilization Plan and submitted to ESD for review and approval.

ESD will review the submitted MWBE Utilization Plan and advise the respondent of ESD acceptance or issue a notice of deficiency within 30 days of receipt.

- B. If a notice of deficiency is issued, the respondent will be required to respond to the notice of deficiency within seven (7) business days of receipt by submitting to OCSD at OCSD@esd.ny.gov, a written remedy in response to the notice of deficiency. If the written remedy that is submitted is not timely or is found by ESD to be inadequate, ESD shall notify the respondent and direct the respondent to submit, within five (5) business days, a request for a partial or total waiver of MWBE participation goals. Failure to file the waiver form in a timely manner may be grounds for disqualification of the bid or application.

ESD may disqualify a respondent as being non-responsive under the following circumstances:

- a) If a respondent fails to submit an MWBE Utilization Plan;
- b) If a respondent fails to submit a written remedy to a notice of deficiency;
- c) If a respondent fails to submit a request for waiver; or
- d) If ESD determines that the respondent has failed to document good faith efforts.

The successful respondent will be required to attempt to utilize, in good faith, any MBE or WBE identified within its MWBE Utilization Plan, during the performance of the Contract. Requests for a partial or total waiver of established goal requirements made subsequent to Contract Award may be made at any time during the term of the Contract to ESD, but it must be made no later than prior to the submission of a request for final payment on the Contract.

The successful respondent will be required to submit a quarterly MWBE Contractor Compliance & Payment Report to ESD, by the 10th day following each end of quarter over the term of the Contract documenting the progress made toward achievement of the MWBE goals of the Contract

Equal Employment Opportunity Requirements

By submission of a bid or application in response to this solicitation, the respondent agrees with all of the terms and conditions in [SCHEDULE B – PARTICIPATION BY MINORITY AND WOMEN-OWNED BUSIENSS ENTERPRISES: REQUIREMENTS AND PROCEDURES](#). The respondent is required to ensure that it and any subcontractors awarded a subcontract for the construction, demolition, replacement, major repair, renovation, planning or design of real property and improvements thereon (the “Work”), except where the Work is for the beneficial use of the respondent, undertake or continue programs to ensure that minority group members and women are afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex, age, disability or marital status. For these purposes, equal opportunity shall apply in the areas of recruitment, employment, job assignment, promotion, upgrading, demotion, transfer, layoff, termination, and rates of pay or other forms of compensation. This requirement does not apply to: (i) work, goods, or services unrelated to the Contract; or (ii) employment outside New York State.

The respondent will be required to submit a Minority and Women-owned Business Enterprise and Equal Employment Opportunity Policy Statement, OCSD-1, to ESD with its bid or application.

If awarded a Contract, respondent shall submit a Workforce Utilization Report and shall require each of its Subcontractors to submit a Workforce Utilization Report, in such format as shall be required by ESD on

a quarterly basis during the term of the Contract.

Pursuant to Executive Order #162, contractors and subcontractors will also be required to report the gross wages paid to each of their employees for the work performed by such employees on the contract utilizing the Workforce Utilization Report on a quarterly basis.

Further, pursuant to Article 15 of the Executive Law (the “Human Rights Law”), all other State and Federal statutory and constitutional non-discrimination provisions, the Contractor and sub-contractors will not discriminate against any employee or applicant for employment because of race, creed (religion), color, sex, national origin, sexual orientation, military status, age, disability, predisposing genetic characteristic, marital status or domestic violence victim status, and shall also follow the requirements of the Human Rights Law with regard to non-discrimination on the basis of prior criminal conviction and prior arrest.

Please Note: Failure to comply with the foregoing requirements may result in a finding of non-responsiveness, non-responsibility and/or a breach of the Contract, leading to the withholding of funds, suspension or termination of the Contract or such other actions or enforcement proceedings as allowed by the Contract.

The required forms can be found at the following web addresses:

Form OCSD-1: <https://esd.ny.gov/sites/default/files/OCSD-1-Policy-Statement.pdf>

Form OCSD-2: <https://esd.ny.gov/sites/default/files/OCSD-2-Staffing-Plan.pdf>

Form OCSD-3:

<https://esd.ny.gov/sites/default/files/OCSD-3-Workforce-Utilization-Report.xlsx>

Form OCSD-4: <https://esd.ny.gov/sites/default/files/OCSD-4%20Utilization%20Plan.pdf>

Form OCSD-5: <https://esd.ny.gov/sites/default/files/OCSD-5-Waiver-Request-Form.pdf>

Form OCSD-6: <https://esd.ny.gov/sites/default/files/OCSD-6%20-%20Contractor%20Compliance%20Payment%20Report.pdf>

In the event that the above links are unavailable or inactive, the forms may also be requested from OCSD at OCSD@esd.ny.gov.

PARTICIPATION OPPORTUNITIES FOR NEW YORK STATE CERTIFIED SERVICE-DISABLE VETERAN OWNED BUSINESSES

Article 17-B of the New York State Executive Law provides for more meaning participation in public procurement by certified Service Disabled Veteran-Owned Businesses (“SDVOB”), thereby further integrating such businesses into New York State’s economy ESD recognizes the need to promote the employment of service-disabled veterans and to ensure that certified service-disabled veteran-owned businesses have opportunities form maximum feasible participation in the performance of ESD contracts.

In recognition of the service and sacrifices made by service-disabled veterans and in recognition of their economic activity in doing business in New York State, Bidders are expected to consider SDVOBs in the fulfillment of the requirements of the Contract. Such participation may be as subcontractors or suppliers, as protégés, or in other partnering or supporting roles.

Contract Goals

- A. For purposes of this solicitation, ESD will establish a goal based on the scope of work and project description identified in the RFA response. For purposes of providing meaningful participation by SDVOBs, the Bidder/Contractor should reference the directory of New York State Certified SDVOBs

found at: http://ogs.ny.gov/Core/docs/CertifiedNYS_SDVOB.pdf. Questions regarding compliance with SDVOB participation goals should be directed to the Designated Contacts. Additionally, following Contract execution, Contractor is encouraged to contact the Office of General Services' Division of Service-Disabled Veterans' Business Development at 518-474-2015 or VeteransDevelopment@ogs.ny.gov to discuss additional methods of maximizing participation by SDVOBs on the Contract.

- B. Contractor must document "good faith efforts" to provide meaningful participation by SDVOBs as subcontractors or suppliers in the performance of the Contract.

SDVOB Utilization Plan

- A. In accordance with 9 NYCRR § 252.2(i), Bidders are required to submit a completed SDVOB Utilization Plan on Form OCSD-4.
- B. The Utilization Plan shall list the SDVOBs that the Bidder intends to use to perform the Contract, a description of the work that the Bidder intends the SDVOB to perform to meet the goals on the Contract, the estimated dollar amounts to be paid to an SDVOB, or, if not known, an estimate of the percentage of Contract work the SDVOB will perform. By signing the Utilization Plan, the Bidder acknowledges that making false representations or providing information that shows a lack of good faith as part of, or in conjunction with, the submission of a Utilization Plan is prohibited by law and may result in penalties including, but not limited to, termination of a contract for cause loss of eligibility to submit future bids and/or withholding of payment. Any modifications or changes to the agreed participation by SDVOBs after the Contract award and during the term of the Contract must be reported on a revised SDVOB Utilization Plan and submitted to ESD.
- C. ESD will review the submitted SDVOB Utilization Plan and advise the Bidder/Contractor of ESD acceptance or issue a notice of deficiency within 20 days of receipt.
- D. If a notice of deficiency is issued, Bidder/Contractor agrees that it shall respond to the notice of deficiency, within seven business days of receipt, by submitting to ESD a written remedy in response to the notice of deficiency. If the written remedy that is submitted is not timely or is found by ESD to be inadequate, ESD shall notify the Bidder/Contractor and direct the Bidder/Contractor to submit, within five business days of notification by ESD, a request for a partial or total waiver of SDVOB participation goals on OCSD-5. Failure to file the waiver form in a timely manner may be grounds for disqualification of the bid or application.
- E. ESD may disqualify a Bidder's bid or application as being non-responsive under the following circumstances:
 - a) If a Bidder fails to submit an SDVOB Utilization Plan;
 - b) If a Bidder fails to submit a written remedy to a notice of deficiency;
 - c) If a Bidder fails to submit a request for waiver; or
 - d) If ESD determines that the Bidder has failed to document good faith efforts.
- F. If awarded a Contract, Contractor certifies that it will follow the submitted SDVOB Utilization Plan for the performance of SDVOBs on the Contract pursuant to the prescribed SDVOB contract goals set forth above.
- G. Contractor further agrees that a failure to use SDVOBs as agreed in the Utilization Plan shall constitute a material breach of the terms of the Contract. Upon the occurrence of such a material breach, ESD

shall be entitled to any remedy provided herein, including but not limited to, a finding of Contractor non-responsibility.

Request for Waiver

- A. Prior to submission of a request for a partial or total waiver, Bidder/Contractor shall speak to the Designated Contacts at ESD for guidance.
- B. In accordance with 9 NYCRR § 252.2(m), a Bidder/Contractor that is able to document good faith efforts to meet the goal requirements, as set forth in clause IV below, may submit a request for a partial or total waiver on Form OCSD-5, accompanied by supporting documentation. A Bidder may submit the request for waiver at the same time it submits its SDVOB Utilization Plan. If a request for a waiver is submitted with the SDVOB Utilization Plan and is not accepted by ESD at that time, the provisions of clauses II (C), (D) & (E) will apply if the documentation included with the Bidder's/Contractor's waiver request is complete, ESD shall evaluate the request and issue a written notice of acceptance or denial within 20 days of receipt.
- C. Contractor shall attempt to utilize, in good faith, the SDVOB identified within the SDVOB Utilization Plan, during the performance of the Contract Requests for a partial or total waiver of established goal requirements made subsequent to Contract award may be made at any time during the term of the Contract to ESD, but must be made no later than prior to the submission of a request for final payment on the Contract.
- D. If ESD, upon review of the SDVOB Utilization Plan and Monthly SDVOB Compliance Report (OCSD-6) determines that Contractor is failing or refusing to comply with the contract goals and no waiver has been issued in regards to such non-compliance, ESD may issue a notice of deficiency to the Contractor. The Contractor must respond to the notice of deficiency within seven business days of receipt. Such response may include a request for partial or total waiver of SDVOB contract goals.

Waiver requests should be sent to OCSD.

Required Good Faith Efforts

In accordance with 9 NYCRR § 252.2(n), Contractors must document their good faith efforts toward utilizing SDVOBs on the Contract. Evidence of required good faith efforts shall include, but not be limited to, the following:

- 1) Copies of solicitations to SDVOBs and any responses thereto.
- 2) Explanation of the specific reasons each SDVOB that responded to Bidders/Contractors' solicitation was not selected.
- 3) Dates of any pre-bid, pre-award or other meetings attended by Contractor, if any, scheduled by ESD with certified SDVOBs whom ESD determined were capable of fulfilling the SDVOB goals set in the Contract.
- 4) Information describing the specific steps undertaken to reasonably structure the Contract scope of work for the purpose of subcontracting with, or obtaining supplies from, certified SDVOBs.
- 5) Other information deemed relevant to the waiver request.

Monthly SDVOB Contractor Compliance Report

In accordance with 9 NYCRR § 252.2(q), Contractor is required to report Monthly SDVOB Contractor Compliance to ESD during the term of the Contract for the preceding month's activity, documenting progress made towards achieving the Contract SDVOB goals. This information must be submitted using form OCSD-6 available on the ESD website and should be completed by the Contractor and submitted to ESD, by the 10th day of each month during the term of the Contract, for the preceding month's activity

to: OCSD@esd.ny.gov.

6. W-9 Form

Provide a completed W-9 form (<https://www.irs.gov/pub/irs-pdf/fw9.pdf>), submit with proposal.

Glossary of Terms Used Throughout the RFA

The following definitions apply to the terms used in this RFA. Terms defined herein are capitalized throughout the text of the RFA. Terms used within a definition that are also defined in this appendix are noted in italics.

Applicant: A lead organization together with member organizations that are responding to this Request for Application.

Accelerator: A comprehensive structured curriculum that helps Scalable Companies developing innovative products or services accelerate their growth, which culminates in a pitch competition.

Basic Research: Basic research is systematic study directed toward greater knowledge or understanding of the fundamental aspects of phenomena and of observable facts without specific applications towards processes or products in mind. Basic Research is not focused on the commercialization of a process or product.

FIC: Fashion Innovation Center

Proposal: A narrative submitted by an Applicant in response to this Request for Application.

Scalable Company: Companies that create or employ disruptive technologies and have a high likelihood of generating a return on investment.

Required Forms

- RFA Application

APPENDIX A: Administrative Proposal (Contractual Requirement Forms)

1. Conflict of Interest Form

<https://esd.ny.gov/sites/default/files/Conflict-of-Interest-Attestation-June-2019.pdf>

2. 139 J&K

https://cdn.esd.ny.gov/CorporateInformation/Data/RFPs/RequiredForms/SF_Law139_JK.pdf

3. Vendor Responsibility Questionnaire –

<https://www.osc.state.ny.us/state-vendors/vendrep/vendor-responsibility-forms>

4. Non Discrimination and Contractor and Supplier Diversity Forms -

<https://esd.ny.gov/sites/default/files/OCSD-1-Policy-Statement.pdf>

5. W9 Form -

<https://www.irs.gov/pub/irs-pdf/fw9.pdf>